

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARGUERITE BAGAROZZI,

Plaintiff,

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION;
SHOMARI AKIL, PRINCIPAL of QUEENS ACADEMY
HIGH SCHOOL; NATHIFA MORRIS, ASSISTANT
PRINCIPAL of QUEENS ACADEMY HIGH SCHOOL,

Defendants.

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**NOTICE OF MOTION TO
DISMISS THE SECOND
AMENDED
COMPLAINT**

18-cv-04893 (RA)

PLEASE TAKE NOTICE that upon the annexed Declaration of Evan M. Piercey, and the exhibits annexed thereto, the accompanying Memorandum of Law in Support of Defendant's Motion to Dismiss the Second Amended Complaint, and upon all the papers and proceedings previously had herein, the Defendant New York City Department of Education ("DOE") in the above-captioned action, will move this Court at the United States Courthouse for the Southern District of New York, 40 Foley Square, New York, New York 10007, before the Honorable Ronnie Abrams, United States District Court Judge, at a time and date to be designated by the Court, for a judgment, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure and Section 3813 of the New York State Education Law, dismissing the Second Amended Complaint in its entirety against Defendant DOE on the grounds that the Second Amended Complaint fails to state a claim upon which relief can be granted and is procedurally deficient in that plaintiff failed to comply with applicable notice of claim provisions.¹

¹ Upon information and belief, the putative individual defendants have not been properly served in this action. While no appearance is being made on their behalf, the arguments supporting dismissal would also apply to them, had they been served.

PLEASE TAKE FURTHER NOTICE that, pursuant to the briefing schedule that was “so ordered” by the Court, Plaintiff’s opposition papers are to be filed by June 25, 2019, and Defendant’s reply papers are to be filed by July 2, 2019.

Dated: New York, New York
June 4, 2019

ZACHARY W. CARTER
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City of New York
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By: /s/
Evan M. Piercey
Assistant Corporation Counsel

TO: **Via ECF**
GLASS & HOGROGIAN LLP
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New York, NY 10007

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MARGUERITE BAGAROZZI, Plaintiff, -against- NEW YORK CITY DEPARTMENT OF EDUCATION; SHOMARI AKIL, PRINCIPAL of QUEENS ACADEMY HIGH SCHOOL; NATHIFA MORRIS, ASSISTANT PRINCIPAL of QUEENS ACADEMY HIGH SCHOOL, Defendants.
NOTICE OF MOTION TO DISMISS THE SECOND AMENDED COMPLAINT
ZACHARY W. CARTER <i>Corporation Counsel of the City of New York</i> Attorney for Defendant DOE 100 Church Street, Room 2-184 New York, New York 10007 Of Counsel: Evan M. Piercey Telephone: (212) 356-2428 Matter No.: 2018-038284
<i>Due and timely service is hereby admitted.</i> <i>Dated: New York, New York.....2019</i> <i>Signed:</i> <i>Attorney for</i>